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REMARKS

Claims 1-10, 12-17, 19, and 21 are pending in this application, stand rejected, and are at issue herein. Claim 15 has been amended as indicated above. Reconsideration of claims 1-10, 12-17, 19, and 21 in view of the foregoing amendments and following remarks, and indication of the allowability of these claims are respectfully solicited.

The Applicant wishes to thank the Examiner and his supervisor for the courtesies shown during the telephonic interview on March 11, 2003, to discuss the finality of the rejection of the last Office Action and the references relied upon by the Office in rejecting the claims of the present application. The Applicant acknowledges the granting of the request for reconsideration of the finality of the rejection of the last Office Action stated in the present action.

The Office has rejected claims 15 and 13 under 35 U.S.C. § 102(b) as being anticipated by Evans. The Applicant respectfully submits that this ground of rejection has been overcome through the clarifying amendment of independent claim 15. Reconsideration of this ground of rejection in view of the foregoing amendment and the following remarks, and indication of the allowability of claims 15 and 13 are respectfully solicited.

As discussed with the Examiner during the telephonic interview, Evans specifically requires the use of an opaque overlay "such that the symbol on a respective underlying keyboard key or pad is not visible when the overlay is in place in register with the keyboard." Evans, page 3, lines 5-9. However, independent claim 15 specifically requires that the layer that is overlaid on the keys be transparent such that both the upper case letter positioned on the key and the lower case letter positioned on the layer are visible. This requirement of claim 15 is specifically contrary to the teachings of Evans which require that the underlying keyboard key or pad not be visible when the overlay is in place in register with the keyboard. In view of these directly contrary requirements, the Applicant respectfully submits that the Evans reference cannot anticipate claim 15, or claim 13 dependent thereon. Reconsideration of this ground of rejection and indication of the allowability of claims 15 and 13 are respectfully solicited.

Additionally, the Applicant respectfully submits that it would be improper to modify the teachings of Evans to make the overlay transparent, as such would render Evans unsatisfactory for its intended purpose. Specifically, making the overlay transparent would not allow this overlay to render the symbol on a respective underlying keyboard key or pad not visible when the overlay is in place in register with the keyboard. Further, if the overlay were made to be transparent, the positioning of the lower case letters in the center of the keys

as shown in FIG. 1, and the positioning of the upper and lower case letters on the overlay in FIG. 2 would obscure and interfere with the underlying upper case letter on the key of the keyboard such that it could not be clearly visible during use. Therefore, the Applicant respectfully submits that Evans neither anticipates nor could render obvious the subject matter of claims 15 and 13. Reconsideration of claims 15 and 13 and indication of their allowability are therefore respectfully solicited.

The Examiner has also rejected claims 15 and 16 under 35 U.S.C. § 102(b) as being anticipated by Education Technology News, Volume 11, Number 14, July 7, 1994 (hereinafter referred to as ETN). This ground of rejection is also believed to be overcome through the clarifying amendment of independent claim 15 above. Reconsideration of this ground of rejection and indication of the allowability of claims 15 and 16 in view of the foregoing amendments and following remarks are respectfully solicited.

As discussed with the Examiner, the ETN reference indicates that Hamden's Keyboard Conversion stickers feature "both upper and lower case letters." However, independent claim 15 requires that the upper case letter be positioned on the keys of the keyboard, and that the lower case letter be positioned on a transparent layer that is overlaid on the keys such that both the upper case letter and the lower case letter are visible. This requirement that the layer be transparent such that the upper case letter on the key of the keyboard be visible when the transparent layer is overlaid on the keys is completely foreign to this brief statement in ETN. That is, the Applicant respectfully submits that the conversion stickers mentioned in ETN must inherently be opaque and must have printed thereon "both upper and lower case letters" as specifically required by this reference.

Using conversion stickers that feature both upper and lower case letters on the sticker is contrary to the requirement of claim 16 that the upper case letter be on the key of the keyboard and be visible through the transparent layer having the lower case letter thereon. While this brief statement in ETN states neither that the stickers are transparent nor opaque, the Applicant respectfully submits that they must be opaque to prevent interference with the visual perception of the upper and lower case keys on the sticker from the upper case glyph that is included on the keys of the keyboard. As such, the Applicant respectfully submits that this single sentence in ETN cannot anticipate claims 15 and 16 as it does not meet each and every limitation required by amended independent claim 15. Reconsideration of this ground of rejection and indication of the allowability of claims 15 and 16 are therefore respectfully solicited.

The Examiner has rejected claims 1-10, 15, 17, and 19 under 35 U.S.C. § 103(a) as being unpatentable over Nopper et al. (U.S. Patent No. 5,021,638) in view of Evans. This

ground of rejection is respectfully traversed with regard to claims 1-10 and 19, and is believed to be overcome with regard to claims 15 and 17 in view of the clarifying amendment to independent claim 15 above. Reconsideration of this ground of rejection and indication of the allowability of claims 1-10, 15, 17, and 19 are therefore respectfully solicited.

As discussed with the Examiner during the telephonic interview, the Nopper et al. '638 reference is being used to supply the "transparent" requirement of the rejected claims, while Evans is used to provide the teaching of providing a lower case letter on the keyboard overlay. However, the Applicant respectfully submits that when the teachings of these two references are combined, the result is an inoperative structure that still fails to meet or suggest each and every limitation of claims 1-10, 15, 17, and 19.

Specifically, if the lower case letters of Evans are positioned on the keyboard cover of Nopper et al. '638 in accordance with the teachings of Evans, these letters would interfere with the underlying upper case glyph on the keyboard keys such that the result would be confusing to the user. That is, Evans requires that the lower case glyph be positioned in the center of the keyboard key on the overlay (see FIG. 1 of Evans). If the overlay were made to be transparent instead of the specifically opaque requirement in Evans, the result would be that the lower case glyph at least partially overlies the upper case glyph which would be visible therethrough, resulting in a confusing mixture of the two letters. This would cause additional confusion with the young learner as opposed to clarification. This would not only be the case with the alphabet letters, but with the other keys as well, as Evans requires that the enter key, shift key, numeric keys, function keys, etc. also include printing on the keyboard cover in the center of each key. These additional indications would also interfere with the normal printing on the keyboard keys themselves and would result in a very visually confusing mixture of the underlying printing and the printing on the overlay.

The only way to overcome this confusing mixture of the upper and lower case glyphs if the overlay of Evans were made to be transparent in accordance with Nopper et al. '638 would be to utilize the teachings of the present application which teaches and specifically requires in independent claim 1 that the lower case letter be positioned on the overlay in a non-interfering location relative to a position of the printed indicia on the alphabet key of the keyboard. There is no other teaching provided in either of the cited references for positioning the lower case letter in such a manner. Such a requirement is not taught or suggested by Evans as its overlay is opaque "such that the symbol on a respective underlying keyboard key or pad is not visible when the overlay is in place in register with the keyboard." Evans, page 3, lines 5-9.

This confusing interference between the printing on the overlay of Evans if provided on the transparent overlay of Nopper et al. '638 would also result if the printing illustrated in FIG. 2 of Evans were used. Specifically, FIG. 2 illustrates the provision of both upper and lower case letters on the overlay which, if transparent, would result in interference with the underlying printing on the keyboard key itself. This interference would occur not only for the individual alphabetic keys, but also for the numeric and function keys on the keyboard which all require printing on the overlay.

In addition to the fact that the combination of these two references would result in an inoperative structure that fails to meet the limitations of these claims, the Applicant also respectfully submits that Evans teaches away from the use of a transparent overlay through its requirement that the underlying keyboard key or pad not be visible when the overlay is in place in register with the keyboard. Further, Evans requires that the overlay comprise a sheet of "substantially flexible opaque plastics material moulded to conform to the shape of the upper surface of the keyboard." Evans, page 4, lines 6-11. Both of these requirements would be violated if the transparent keyboard cover of Nopper et al. '638 were used. As such, the Applicant respectfully submits that this combination is inappropriate, and this ground of rejection should be withdrawn. Reconsideration of this ground of rejection and indication of the allowability of claims 1-10, 15, 17, and 19 are therefore respectfully solicited.

Turning specifically to the claims, independent claim 1 requires, *inter alia*, that the overlay include at least a transparent upper surface "to allow printed indicia on a key of the keyboard to be visible therethrough" and that the overlay include "a lower-case letter positioned thereon in a non-interfering location relative to a position of the printed indicia on the alphabet key." As discussed above, the combination of these two references will not result in this structure without further modification to the requirements of Evans based upon the teachings of the instant application. As is well settled law, such modification based upon the Applicant's own teachings is specifically precluded as hindsight reconstruction.

Claim 2 requires, *inter alia*, that the lower case letter be positioned in a fourth quadrant of the transparent upper surface of the key accommodating structure. However, the lower case letters of Evans are positioned in the center of each of the key-accommodating structures in the overlay. In the embodiment of Evans illustrated in FIG. 2, wherein both the upper and lower case letters are positioned on the overlay, the upper case letter positioned in the first quadrant of the overlay key would interfere with the underlying upper case letter of the keyboard key.

Claim 3 requires, *inter alia*, that the lower case letter be positioned in a second quadrant of the transparent upper surface of the key accommodating structure. However, as

just discussed, Evans teaches only that the lower case letter be positioned in the center of the key, which would interfere with the underlying upper case letter of the keyboard. There is no teaching or suggestion to place the lower case glyph in the second quadrant of the upper surface of the key accommodating structure in Evans. As such, the only teaching or suggestion of such a limitation comes from the Applicant's own disclosure, the use of which is specifically precluded in constructing a rejection of these claims.

Claim 5 requires, *inter alia*, that the teaching apparatus be for use in an educational environment utilizing a first font style with which to teach children, and that the lower case letters be rendered in that same first font style. Claim 6 specifies that the font style is D'Nealian while claim 7 requires that the first font style be Zaner Bloser. To support the rejection of these claims, the Office has indicated that such a relationship between the font style of the lower case letter and that which is used by an educational institution to teach children is a mere matter of obvious design choice "inasmuch as the Applicant discloses no advantage or critical need for them." However, the Applicant respectfully submits that she has indeed disclosed an advantage to utilizing the same font as that which is used to teach children in a particular educational institution.

Specifically, the Applicant states in paragraph [0051] "these same fonts are used in an embodiment of the present invention to fully integrate and reinforce the child's early learning."

While the application does state that other embodiments may utilize "nearly any font displaying lower case letters" as such will aid a child and more easily enable that child to enter data into a computer than having to use only the upper case letters provided on a standard keyboard, these additional embodiments are not claimed in claims 5, 6 and 7. Specifically, claim 5 is directed to a preferred embodiment of the instant invention wherein the lower case letters are rendered in the same font style as that used in the educational environment with which to teach the children. In this embodiment, the disclosed advantage or critical need is that this requirement "fully integrate[s] and reinforce[s] the child's early learning." Such reinforcement and integration with the child's early learning cannot be done if any lower case font is used other than that which is used to teach the children in the educational institution. As such, the Applicant respectfully submits that she has indeed listed an advantage and critical need for the specific requirement of claims 5, 6, and 7. Therefore, the Applicant respectfully submits that the Office may not take the position that such requirements are merely a matter of obvious design choice. While the Applicant does describe other embodiments of the present invention that may utilize any font of lower case letters, claim 5 specifically requires the identity of the font used for the lower case letter

on the overlay and that which is used to teach the children in the educational institution. Therefore, the Applicant respectfully submits that claims 5-7 are not rendered obvious by this combination for these additional reasons.

Claim 8 requires, *inter alia*, that the lower case letter be positioned on an under surface of the transparent upper surface of the individual key accommodating structures. Quite to the contrary, Evans inherently requires that its lower case letter be positioned on the upper surface of the key-accommodating structures because the overlay itself is opaque. That is, if the lower case letter of Evans were positioned on the under surface of the overlay, it could not be seen by the user. Therefore, it cannot be said that Evans provides any teaching or suggestion of providing the lower case letter on an under surface of the overlay. In fact, its requirement is specifically contrary to this in that it must appear on the upper surface of the overlay. Nopper et al. '638 is completely devoid of any discussion of providing any indication on the keyboard cover, and therefore also cannot provide this teaching or suggestion. Indeed, the Applicant respectfully submits that the only teaching or suggestion of this requirement comes from the Applicant's own disclosure, the use of which is specifically precluded as resulting in hindsight reconstruction.

Claim 9 further requires that a transparent protective layer be attached to the under surface of the transparent upper surface of the individual key accommodating the structure such that the lower case letter is positioned between the transparent upper surface and the transparent protective layer. As discussed above with regard to claim 8, neither Nopper et al. '638 nor Evans discusses any such structure required by claim 9. Specifically, Evans requires that the lower case letter be positioned on the outer surface of the overlay (or else it would not be visible through the opaque layer of Evans), and Nopper et al. '638 does not describe any multi-layer structure whatsoever. In fact, Nopper et al. '638 describes its overlay as a membrane that forms a 1-piece cover. Indeed, the cross-section of FIG. 2 illustrates the overlay as a single layer of silicone rubber.

In view of the above, the Applicant respectfully submits that claims 1-10 are not rendered obvious in view of the combination of Nopper et al. '638 in view of Evans for these various reasons.

Independent claim 15 also requires that the glyph of the lower case letter be positioned in a non-interfering location on a transparent layer as overlaid on the keys such that both the upper case letter on the keyboard key and the lower case letter on the transparent layer are visible. As discussed above, the combination of Nopper et al. '638 with Evans does not result in such a structure, but would in fact result in a structure in which the lower case

glyph would at least partially overlies the underlying upper case letter on the keyboard key resulting in a confusing visual effect that would not aid young children.

Further, claim 17 specifically requires that the glyph of a lower case letter be positioned on a key accommodating structure in a non-interfering location relative to a position of the glyph of the upper case letter on the keys. As discussed at length above, the combination of Nopper et al. '638 providing a transparent overlay with the keyboard overlay of Evans results in a structure where the lower case letter is positioned in the center of the key accommodating structure of the overlay, which would interfere with the underlying upper case letter on the keyboard key itself. The only teaching that would suggest the movement of the position of the lower case glyph is provided in the Applicant's own disclosure, and may not be used to modify these two references. As such, the Applicant also respectfully submits that claims 15 and 17 are in condition for allowance in view of the foregoing amendments and remarks.

Independent claim 19 requires, *inter alia*, the step of providing a computer keyboard and computer keyboard overlay having a plurality of individual key accommodating structures, each structure having at least a transparent upper surface to allow printed indicia on a key of the computer keyboard to be visible therethrough, and at least a portion of the transparent upper surfaces of the key accommodating structures that correspond to alphabet keys of the computer keyboard having a lower case letter positioned thereon in a non-interfering location relative to a position of the printed indicia on the alphabet key. As discussed at length above, the combination of Nopper et al. '638 with Evans does not provide this step. As such, and without reiterating this argument, the Applicant respectfully requests reconsideration of independent claim 19.

In view of the foregoing, the Applicant respectfully submits that claims 1-10, 15, 17, and 19 are not obvious over Nopper et al. '638 in view of Evans. Reconsideration of this ground of rejection and indication of the allowability of claims 1-10, 15, 17, and 19 are therefore respectfully solicited.

The Examiner has also rejected claims 12 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Evans. Reconsideration of this ground of rejection in view of the foregoing amendments to independent claim 15 from which these claims depend and in view of the following remarks are respectfully solicited.

The Applicant wishes to reiterate the remarks above with regard to independent claim 15 regarding the Evans reference. Further, while the Office admits that the Evans reference does not disclose the specific requirements of these claims, it states that the positioning of the lower case letters is an obvious choice of design motivated for the purpose of interest to the

consumer. However, the description of Evans itself belies such a conclusion. That is, if the positioning of the lower case glyph were a mere matter of obvious design choice, then there would be no need to modify the placement of the lower case glyph shown in FIG. 1 in the center of the keys. Indeed, with the opaque overlay of Evans there is no need to be concerned with the positioning of the lower case glyph relative to the underlying upper case glyph of the keyboard key because that upper case glyph cannot be seen through the opaque overlay.

However, in the claimed invention the overlay is transparent and the positioning of the lower case glyph now becomes critical relative to the positioning of the underlying upper case glyph on the keyboard key. To state that there is no disclosed advantage or critical need for the positioning is erroneous as the Applicant has pointed out above. That is, if the positioning of the lower case glyph is not critical then positioning the glyph as taught by Evans in the center of the key would be o.k. However, as discussed at length above, such positioning results in interference between the upper case glyph of the underlying keyboard key and the lower case glyph on the transparent cover. This results in a confusing visual mess that will further confuse the young learner. As discussed in the specification, if the upper surface of the key is divided into the standard quadrants, only three of the four quadrants are available for positioning of the lower case glyph. Further, as just discussed, positioning of the lower case glyph in the center of the key as is taught by Evans also cannot occur as such results in a confusing visual representation as the glyphs overlies one another. The Applicant also respectfully submits that the mere fact that she has provided multiple embodiments for the positioning of the lower case glyph does not render the specific selection and placement a matter of mere engineering design choice without advantage or need. Reconsideration of claims 12 and 14 for these additional reasons is therefore respectfully solicited.

The Examiner has rejected claim 16 under 35 U.S.C. § 103(a) as being unpatentable over Evans in view of Nichol et al. (U.S. Patent No. 6,050,825). This ground of rejection is respectfully traversed in view of the foregoing amendments and following remarks. Reconsideration of this ground of rejection and indication of the allowability of claim 16 is therefore respectfully solicited.

As discussed above, amended independent claim 15 on which claim 16 depends requires that the lower case letter be positioned on a transparent layer that is overlaid on the keys such that both the upper case letter from the keyboard key and the lower case letter on the transparent layer are visible without interfering with one another. However, both Evans and Nichol et al. '825 provide opaque keyboard covers that do not allow the upper case letter on the keyboard key to be visible therethrough. Further, claim 16 specifically requires that

the layer be adhesively attached on individual keys. The Examiner has pointed to column 7, lines 39-42 and line 46 of Nichol et al. '825 to supply such teaching. However, an examination of the cited section reveals no such teaching. While the cited section does indicate that the entire keyboard cover could be attached to the keyboard, by using Velcro™, a physical or mechanical, or an adhesive device for security purposes, this reference does not indicate that the layer is adhesively attached "on individual keys" as specifically required by claim 16. Further, column 5, lines 66 to column 6, line 1 states "there is no mechanical connector or connection to the keyboard 12. The weight of the cover 10 in grooves 16 shaping each key combined to insure its proper placement." As such, and in view of the failure of either of these references alone or in combination to teach the required elements of independent claim 15 as amended from which claim 16 depends, the Applicant respectfully submits that claim 16 is in condition for allowance. Reconsideration of this ground of rejection and indication of the allowability of claim 16 at an early date are respectfully solicited.

The Examiner has also rejected claims 19 and 21 under 35 U.S.C. § 103(a) as being unpatentable over RussianStickers.com (herein referred to as RS) or jewishsoftware.com (herein referred to as JS) in view of Education Technology News, Volume 11, Number 14, July 7, 1994 (herein referred to as ETN). This ground of rejection is respectfully traversed. Reconsideration of this ground of rejection in view of the following remarks and indication of the allowability of claims 19 and 21 at an early date are respectfully solicited.

As discussed with the Examiner during the telephonic interview, the Office has failed to identify the date of the RS and JS references that would qualify them as prior art against the instant application. Specifically, the Examiner has stated that the RS reference is "known and used by the public since 1995." However, an examination of the RS reference indicates that the 1995 date was taken out of context in a sentence that reads "Welcome to RussianStickers.com, the leader in Russian Cyrillic Keyboard solutions since 1995!" However, there is nothing in this laudatory statement that says that any individual product displayed on the website printout cited by the Examiner was publicly known or used in the United States or appeared in a printed publication at any point prior to the filing of the Applicant's application.

Similarly, the JS reference for which the Examiner cites a copyright date of 2000, also includes a date of January 30, 2003, in close proximity to the keyboard stickers-black Hebrew letters specifically used by the Examiner in constructing this ground of rejection. However, the Examiner has failed to establish a date that qualifies this reference as prior art to be used against the Applicant's application. Further, there is no relation between the date of copyright

In re Appln. of: Dawn Marie Schwarzkopf
Application No.: 09/920,676

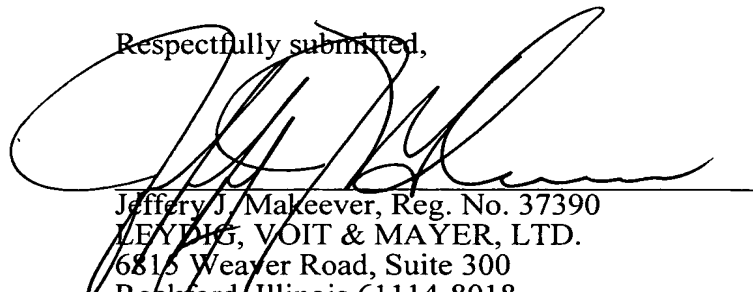
and when a work is actually published as the copyright attaches upon creation, not publication. MPEP § 706.02 states that the burden to determine the issue or publication date of a reference is on the Examiner. Indeed, MPEP § 2128 explains that "prior art disclosures on the Internet or on an on-line database are considered to be publicly available as of the date the item was publicly posted. If the publication does not include a publication date (or retrieval date), it cannot be relied upon as prior art under 35 U.S.C. § 102(a) or (b), although it may be relied upon to provide evidence regarding state of the art. Examiners may ask the Scientific and Technical Information Center to find the earliest date of publication." As such, the Applicant respectfully submits that the Office has failed to show that the RS or JS references qualify as prior art that may be used to reject the claims of the present application. Therefore, this ground of rejection is inappropriate and should be removed. Reconsideration of this ground of rejection and indication of the allowability of claims 19 and 21 at an early date are respectfully solicited.

Conclusion

In view of the above, the Applicant respectfully submits that claims 1-10, 12-17, 19, and 21 are in condition for allowance. Reconsideration of claims 1-10, 12-17, 19, and 21 at an early date and indication of their allowability are respectfully solicited.

If the Examiner believes that a telephonic conversation will aid in the resolution of any issues not resolved herein, the Examiner is invited to contact the Applicant's attorney at the telephone number listed below.

Respectfully submitted,



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